



REPS

Code



Retailer Energy Productivity Scheme Code

Version: ~~REPSC/021~~

~~January-February 2021-2022~~

Enquiries concerning this Code should be addressed to:

Essential Services Commission
GPO Box 2605
ADELAIDE SA 5001

Telephone: (08) 8463 4444
Freecall: 1800 633 592 (SA and mobiles only)
E-mail: escosa@escosa.sa.gov.au
Web: www.escosa.sa.gov.au

Amendment record

Issue number	Commencement date	Pages
REPSC/01	1 January 2021	22
REPSC/02	February 2022	TBC

Table of contents

1	Preliminary	1
1.1	Title, authority and commencement	1
1.2	Definitions and Interpretation	1
1.3	Application	1
1.4	Powers and functions of the Commission	1
1.5	Retailer's general obligations	2
2	Determination of Obligated Retailers	3
2.1	Obligation thresholds	3
3	Annual Energy Productivity Target	4
3.1	Obligation to achieve energy productivity targets	5
4	Record Keeping, Reporting and Assurance	6
4.1	Compliance plans	6
4.2	Record keeping obligations	8
4.3	Reporting obligations	9
4.4	Quality assurance requirements	11
4.5	Field Audits	11
5	Assessment of Performance	12
5.1	Commission determination of annual target achievement	12
5.2	Information subsequent	12
6	Consumer Protection Obligations	14
6.1	Information provision	14
6.2	Complaints	14
6.3	Identification	15
6.4	General conduct standards	15
6.5	Mandatory safety requirements	15
6.6	Fit and proper person test	16
6.7	Provision of general information about the Retailer Energy Productivity Scheme	16
	Schedule 1 – Definitions	19
	Schedule 2 - Interpretation	23
	Schedule 3 - REPS Activity Records	24

1 Preliminary

1.1 Title, authority and commencement

~~1.1~~ **Authority**

~~1.1.1~~ This industry code:

- ~~(a)~~ is the **Retailer Energy Productivity Scheme Code**
- ~~(b)~~ is made by the **Commission** pursuant to the provisions of Part 4 of the *Essential Services Commission Act 2002*
- ~~(c)~~ commences on 1 January 2021; and
- ~~(d)~~ may only be varied or revoked in accordance with the provisions of Part 4 of the *Essential Services Commission Act 2002*.

~~1.1.1~~ This Retailer Energy Productivity Scheme Code is made as an industry code pursuant to the powers of the **Commission** under section 28 of the *Essential Services Commission Act 2002 (SA)*.

~~1.2~~ **Commencement**

~~1.2.1~~ This Retailer Energy Productivity Scheme Code commenced on 1 January 2021.

~~1.3~~ **1.2 Definitions and Interpretation**

~~1.3.1.2.1~~ In this Retailer Energy Productivity Scheme Code, words appearing in bold like “**this**” are defined in Schedule 1.

~~1.3.2.1.2.2~~ This Retailer Energy Productivity Scheme Code must be interpreted in accordance with the rules set out in Schedule 2.

~~1.4~~ **1.3 Application**

~~1.4.1.3.1~~ The provisions of Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012* establish the **Retailer Energy Productivity Scheme**.

~~1.4.2.1.3.2~~ Each **energy retailer** is required to comply with the **Retailer Energy Productivity Scheme**.

~~1.4.3.1.3.3~~ Nothing in this Code affects anything done or omitted to be done, or rights, obligations or liabilities accrued under the previous Retailer Energy Efficiency Scheme Code (REESC/08) in effect from time to time.

~~1.5~~ **1.4 Powers and functions of the Commission**

~~1.5.1.4.1~~ The **Commission** is the administrator of the **Retailer Energy Productivity Scheme** and has such functions and powers as are necessary or expedient to give effect to the **Retailer Energy Productivity Scheme** including, without limitation, the following:

- (a) administering the **Retailer Energy Productivity Scheme**

- (b) ensuring that **energy retailers** comply with the **Retailer Energy Productivity Scheme**, and, if required, taking appropriate action in matters where **energy retailers** fail to comply with their obligations, and
- (c) reporting to the **Minister** annually in relation to the operation of the **Retailer Energy Productivity Scheme**, and from time to time in relation to any other matter with respect to the **Retailer Energy Productivity Scheme**.

1.61.5 Retailer's general obligations

~~1.6.11.5.1~~ While all **energy retailers** are bound at all times by the provisions and requirements of the **Retailer Energy Productivity Scheme**, in respect of any given REPS year each **obliged retailer** must:

- (a) cause sufficient **energy productivity activities** to be undertaken so as to meet that **obliged retailer's** ~~specific~~ allocation of the **annual energy productivity target**
- (b) in relation to the **energy productivity activities** referred to in clause ~~1.5.1(a)~~~~1.65.1(a)~~ cause sufficient **energy productivity activities** to be undertaken in respect of priority group households residential households and other classes of customers or activities identified for primary and secondary sub-targets as set by the Minister, so as to meet that **obliged retailer's** annual allocation of the **priority group household energy productivity target**, and any other **energy productivity sub-targets** as set by the **Minister**, and
- (c) comply with the provisions of this Retailer Energy Productivity Scheme Code in relation to those obligations and all further obligations within this Retailer Energy Productivity Scheme Code.

~~1.6.21.5.2~~ This Retailer Energy Productivity Scheme Code establishes requirements and procedures in relation to the conduct and operations of **energy retailers** in satisfaction of the **Retailer Energy Productivity Scheme** obligations, including:

- (a) the allocation, and notification of an obligation to achieve, targets
- (b) record-keeping and reporting obligations, and
- (c) compliance and audit obligations,

in relation to **energy productivity targets** and the proper operation of the **Retailer Energy Productivity Scheme**.

2 Determination of Obligated Retailers

2.1 Obligation thresholds

- 2.1.1 A **primary obliged retailer** is an **energy retailer** which has **residential customer** numbers equalling or exceeding the **primary obligation threshold** as at 30 June immediately prior to the commencement of a **REPS year**. A **primary obliged retailer** will be set an **energy productivity target**, a **priority group household energy productivity target**, and may be set further **energy productivity sub-targets**.
- 2.1.2 A **secondary obliged retailer** is an **energy retailer** that purchases, as at 30 June immediately prior to the commencement of a **REPS year**, an amount of electricity and/or gas equalling or exceeding the **secondary obligation threshold** for on-selling to South Australian customers, but does not exceed the **primary obligation threshold**. A **secondary obliged retailer** will be set an **energy productivity target** and may be set **energy productivity sub-targets**.
- 2.1.3 For the avoidance of doubt, an **energy retailer** may have **both-concurrent** electricity and gas obligations.

2.2 ~~Commission determination of obliged retailers~~

- 2.2.1 ~~On or before each 31 October immediately prior to the commencement of a REPS year, the Commission will:~~
- ~~(a) determine whether an energy retailer is to be an obliged retailer for that REPS year, and~~
 - ~~(b) where the Commission determines that an energy retailer is to be an obliged retailer for that REPS year, advise that energy retailer of the Commission's determination in writing.~~
- 2.2.2 ~~In making a determination for a REPS year under clause 2.2.1~~
- ~~(a) data reported to the Commission by each energy retailer in accordance with the requirements of this Retailer Energy Productivity Scheme Code (under clauses 4.4.1 to 4.4.3)~~
 - ~~(b) data made available to the Commission by AEMO~~
 - ~~(c) data made available to the Commission by a distributor, and~~
 - ~~(d) any other data or information which the Commission considers relevant, in relation to:~~
 - ~~(i) the number of residential customers which an energy retailer had at 30 June~~
 - ~~(ii) the amount of energy purchases made by that energy retailer in the preceding financial year, and~~
 - ~~(iii) the total designated energy purchases by that energy retailer to individual customers (the threshold amount to be specified by the Minister by notice in the South Australian Government Gazette) in the preceding financial year.~~

3 Annual Energy Productivity Target

3.1 ~~Retailer Energy Productivity Scheme annual energy productivity targets~~

- 3.1.1 Pursuant to Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*, the **Minister** will set **annual energy productivity targets** for each **REPS year** by notice in the South Australian Government Gazette.
- 3.1.2 Pursuant to Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*, for each **REPS year** the **Minister** will set a percentage or value of the **annual energy productivity target** to be achieved through the provision of **energy productivity activities** to **priority groups**, through the **priority group household energy productivity target**, and may set further **energy productivity sub-targets** from time to time for each **REPS year** by notice in the South Australian Government Gazette.
- 3.1.3 The **Commission** is required to apportion each **annual energy productivity target** amongst **obliged retailers**. **Only primary obliged retailers will be set a priority group household energy productivity target**. **Obliged retailers** are required to cause sufficient **energy productivity activities** to be undertaken to meet their obligations.

3.2 ~~Apportionment of annual energy productivity targets~~

- 3.2.1 On or before each 31 October immediately prior to the commencement of a **REPS year**, the **Commission** will:
- (a) in accordance with the provisions of Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 1997*, calculate the **electricity energy productivity target** and/or **gas energy productivity target**, **priority group household energy productivity target** and any other **energy productivity sub-targets** as set by the **Minister**, to apply to each **obliged retailer** for that **REPS year**, and
 - (b) notify each **obliged retailer** in writing of:
 - (i) any **electricity energy productivity target** and/or **gas energy productivity target** which applies to that **obliged retailer** for that **REPS year**, and
 - (ii) the percentage or value, if any, of any **electricity energy productivity target** and/or **gas energy productivity target** which the **Minister** has determined must be achieved through the provision of **energy productivity activities** to the **priority group household energy productivity target** and any other **energy productivity sub-targets** that may be set from time to time.
- 3.2.2 In making a determination for a **REPS year** under clause 3.2.1, the **Commission** will have regard to:
- (a) data reported to the **Commission** by each **energy retailer** in accordance with the requirements of this Retailer Energy Productivity Scheme Code (under clauses 4.4.1 to 4.4.3)
 - (b) data made available to the **Commission** by AEMO
 - (c) data made available to the **Commission** by a **distributor**, and

~~(d) any other data or information which the Commission considers relevant.~~

3.33.1 Obligation to achieve energy productivity targets

3.1.1 Each **obliged retailer** in receipt of a notice issued by the **Commission** under clause ~~3.2.1(b)5.1~~ ~~notify each obliged retailer in writing of:~~ must cause sufficient **energy productivity activities** to be undertaken so as to meet its **electricity energy productivity targets** and/or **gas energy productivity targets** for that REPS year.

DRAFT

3.4 — Notification of energy productivity target shortfalls

3.4.1 — If the **Commission** determines that an **obliged retailer** in receipt of a notice issued under clause 3.2.1(b) in respect of a **REPS year** has failed to achieve its **electricity energy productivity target** and/or **gas energy productivity target**, including any **energy productivity sub-targets**, then the **Commission** may, at any time, notify the **obliged retailer** in writing of the amount of that shortfall.

3.5 — Notification of energy productivity target excess

3.5.1 — If the **Commission** determines that an **obliged retailer** in respect of a **REPS year** has caused more **energy efficiency productivity activities** to have been undertaken than would otherwise be necessary to achieve its **electricity energy productivity target** and/or **gas energy productivity target**, including any **energy productivity sub-targets**, then the **Commission** may, at any time, notify the **obliged retailer** in writing of the amount of that excess.

4 Record Keeping, Reporting and Assurance

4.1 Compliance plans

4.1.1 By no later than 31 March in each **REPS year**, each **obliged retailer** must submit to the **Commission**, in writing, a compliance plan for the **REPS year** in accordance with the requirements of this clause 4.1 Compliance plans.

4.1.2 An annual compliance plan must be signed and dated by one of the following person(s):

- (a) the Chief Executive Officer of the **obliged retailer**
- (b) a person holding an equivalent position to Chief Executive Officer of the **obliged retailer**
- (c) a person delegated to exercise the powers and functions of the **obliged retailer** at a level equivalent to that held by a Chief Executive Officer, ~~or~~
- (d) the person acting as Chief Executive Officer or equivalent position during an absence of the substantive officeholder, or
- (e) where none of the persons outlined in (a) to (d) exist or are available, the obliged retailer must propose to the Commission in writing as soon as reasonably practicable, and in any event, before 31 March each year an appropriate alternative person to sign the compliance report following consultation with the obliged retailer (eg a director or company secretary of a corporate obliged retailer).

4.1.3 A compliance plan must include at least the following matters:

- (a) a statement from the Chief Executive Officer (or other person as authorised under clause 4.1.2) of the **obliged retailer**:

- ~~(i)~~ providing details of how the **obliged retailer** will comply with its obligations under the **Retailer Energy Productivity Scheme**.
- ~~(ii)~~ acknowledging the obligations and responsibilities of that **obliged retailer** under the **Retailer Energy Productivity Scheme** and this Retailer Energy Productivity Scheme Code
- ~~(iii)~~ acknowledging the consumer protection provisions under chapter 6, for the **REPS year**, including assurance that all installers have completed the required training outlined in chapter 6 of this Retailer Energy Productivity Scheme Code
- ~~(iv)~~ providing assurance as to the capacities, and systems and processes of the **obliged retailers** contractors and/or agents to ensure compliance with the **Retailer Energy Productivity Scheme**, and
- ~~(v)~~ identifying any- **Retailer Energy Productivity Scheme** related reviews or audits, undertaken or planned to be undertaken in the **REPS year** by the **obliged retailer** of their own or contractors ' and/or agents' systems and processes.
- (b) information about the **obliged retailer's** complaint and dispute resolution procedures in relation to the **Retailer Energy Productivity Scheme**, demonstrating that the procedures:
 - (i) are established in accordance with AS/NZ 10002:2014 (or any standard which supersedes this standard) and
 - (ii) are readily accessible to any **customer** that has had an **energy productivity activity** undertaken
- (c) a description of the training provided to the **obliged retailer's** employees, contractors and/or agents in relation to the performance of **energy productivity activities**
- (d) a description of the systems and processes in place to ensure that persons undertaking activities, where training requirements are identified in the specification for that activity (as gazetted by the **Minister**), have fulfilled the mandatory training requirements outlined in chapter 6 of this Retailer Energy Productivity Scheme Code
- (e) a description of the systems and processes in place to ensure those persons undertaking an **energy productivity activity** ~~at or in respect of~~ a customer's **premises** are fit and proper persons to both competently perform these activities and to be present at a customer's premises
- ~~(f)~~ a description of the **obliged retailer's** internal allocation of obligations and responsibilities under the **Retailer Energy Productivity Scheme** and this **Retailer Energy Productivity Scheme Code** for the **REPS year**
- ~~(g)~~ (f) a description of the resources, systems and processes which the **obliged retailer** intends to use to ensure that the **obliged retailer's** obligations and responsibilities under the **Retailer Energy Productivity Scheme** and this Retailer Energy Productivity Scheme Code will be met for the **REPS year**

~~(g)~~ a template copy of the **information statement** and **activity record** in relation to **energy productivity activities** performed, as required by clause ~~1.1.14.2.1~~; and clause 6.1.2, and

~~(h)~~ nomination of a senior officer of the **obliged retailer** to sign declarations relating to ~~addresses~~ errors and change of occupancy for reporting purposes.

~~4.1.4~~ If the **Commission** considers that the compliance plan does not address all of the required information, it may require the **obliged retailer** to submit an amended compliance plan as directed by the **Commission** in writing.

~~4.1.44.1.5~~ An **obliged retailer** must advise the **Commission** in writing within 20 **business days** of any material changes to its compliance plan.

~~4.1.54.1.6~~ An **obliged retailer** must advise the **Commission** in writing within 20 **business days** of any compliance concerns raised through **Retailer Energy Productivity Scheme** related internal reviews or audits undertaken in the **REPS year** by the **obliged retailer** of their own or contractors' and/or agents' systems and processes.

~~4.1.64.1.7~~ An **obliged retailer** must provide to the **Commission** any additional information in relation to **Retailer Energy Productivity Scheme** compliance matters as ~~sought~~ **required** by the **Commission** from time to time.

~~4.2~~ — **Energy productivity activity records**

~~4.2.11.1.1~~ An **obliged retailer** must collect and record the information specified in Schedule 3 in relation to each **energy productivity activity** at the time the activity is performed.

~~4.34.2~~ **Record keeping obligations**

~~4.3.14.2.1~~ An **obliged retailer** must collect and record the information **to evidence compliance with the requirements of the Retailer Energy Productivity Scheme specified in Schedule 3** in relation to each **energy productivity activity** at the time the activity is performed **(including but not limited to the information specified in Schedule 3)**.

~~4.3.24.2.2~~ All records maintained for the purpose of clause ~~1.1.14.2.1~~ must be:

- (a) kept within the possession ~~or control~~ of an **obliged retailer** for at least a period of ~~5-five~~ years following ~~the expiry of Part 4 of the Electricity (General) Regulations 2012 and Part 4 of the Gas Regulations 2012~~ **the completion of each energy productivity activity**.
- (b) kept readily accessible, and
- (c) made available to the **Commission** or the **Energy and Water Ombudsman SA** upon requirement in a format as ~~required-requested~~ by the **Commission**.

4.44.3 Reporting obligations

~~4.3.1 All energy retailers (including obliged retailers and NERL retailers) An obliged retailer must report data in the format and manner specified by the Commission.~~

~~4.4.1 All energy retailers (including obliged retailers and NERL retailers) must maintain reporting arrangements which enable information provided to the Commission to be verified.~~

~~4.3.2~~

~~4.4.2 For the purposes of determining obligations and the setting of individual obliged retailer targets for a REPS year, energy retailers must provide the Commission with the statistical information outlined in Energy Industry Guideline No. 6 – Retailer Energy Productivity Scheme Guideline – Statistical Information, no later than 31 August of the year preceding a REPS year.~~

~~4.4.3 For the avoidance of doubt, the reporting requirements outlined in clause 4.4.23 apply to all energy retailers (including NERL retailers) and are not limited to obliged retailers.~~

~~4.4.4 For reported data to count towards a REPS year, that data must be applied to a target and all applicable documentation relating to reported data must be provided~~

DRAFT

to the **Commission** by the **obliged retailer** within 20 **business days** after the end of that **REPS year**.

4.5 — Substance to prevail over legal form

- 4.5.1 — Data reported to the **Commission** must report the substance of transactions and events.
- 4.5.2 — Where substance and legal form differ, the substance rather than the legal form of a transaction or event must be reported.
- 4.5.3 — In determining the substance of a transaction or event, all its aspects and implications will be considered, including the expectations of, and motivations for, the transaction or event.
- 4.5.4 — For the purposes of determining the substance of a transaction or event, a group or series of transactions or events that achieves, or is designed to achieve, an **energy productivity activity** will be viewed in aggregate.

4.6 — Information provided must be verifiable

- 4.6.1 — **Obligated retailers** must maintain reporting arrangements which enable information provided to the **Commission** to be verified.

4.7 — Materiality

- 4.7.1 — All reports provided to the **Commission** by an **obliged retailer** must accurately set out all material matters.
- 4.7.2 — The **Commission** will apply the following standard of **materiality**:
 - (a) — an item is **material** if its omission, misstatement or non-disclosure has the potential to prejudice the understanding of the **energy productivity activities** undertaken by the **obliged retailer**
 - (b) — the **materiality** of an individual item, or aggregate of items, will depend upon both the size and nature of the omission, misstatement or non-disclosure having regard to the particular circumstances
 - (c) — the assessment of **materiality** shall consider qualitative as well as quantitative factors, and
 - qualitative factors which impact on the **materiality** of an item, include (but are not limited to):
 - (d) — :

- ~~(i) the significance of an item to the Commission in its administration of the Retailer Energy Productivity Scheme~~
- ~~(ii) the pervasiveness of a misstatement, and~~
- ~~(iii) the effect of misstatement on other data reported by the obliged retailer.~~

4.84.4 Quality assurance requirements

~~4.8.14.4.1~~ The Commission may require an obliged retailer to:

- (a) undertake an audit of its operations in relation to, and its compliance with its obligations under, the **Retailer Energy Productivity Scheme**, in accordance with the requirements of Energy Industry Guideline No. 4 issued by the Commission (as amended from time to time)
- (b) report to the Commission the results of audits conducted for the purpose of this clause ~~4.4.14.85.1~~, in a manner approved by the Commission, and
- (c) ~~appoint (and pay for) use~~ an independent expert ~~approved as directed~~ by the Commission ~~in writing~~ to conduct audits under this clause ~~4.4.14.865.1~~.

~~4.8.2~~ When independent assurance is required by the Commission for the purposes of this clause ~~4.856~~, it must be consistent with the requirements of Energy Industry Guideline No. 4 – Compliance Systems and Reporting (or any other Guideline that supersedes or replaces this Guideline).

4.94.5 Field Audits

~~4.9.14.5.1~~ From time to time, the Commission may require an obliged retailer to conduct field audits for **energy productivity activities** it conducted in order to meet the obliged retailer's obligations.

~~4.9.24.5.2~~ The Commission will notify the obliged retailer in writing of this requirement and advise the obliged retailer the specifications of the field audit, the number of audits to be conducted and the timeframe for completion (which is to be no less than ~~28 calendar~~**20 business** days).

5 Assessment of Performance

5.1 ~~Commission assessment of quarterly achievement~~

~~5.1.1 For a quarter other than a quarter ending on 31 December (quarters January to March, April to June or July to September), the Commission will, based on the information then available to it:~~

~~5.1.2 assess the extent to which the energy productivity activities reported in that quarter contribute towards the satisfaction of the obliged retailer's energy productivity targets.~~

~~5.1.3 The Commission will advise the obliged retailer in writing of the Commission's assessments under clause 5.1.1 within 10 business days of the assessments being made.~~

~~5.1.4 An assessment under this clause 5.1 does not constitute a determination of a Retailer Energy Productivity Scheme annual target achievement for the purposes of this Retailer Energy Productivity Scheme Code.~~

5.25.1 Commission determination of annual target achievement

~~5.2.15.1.1~~ For each REPS year ending 31 December, the Commission will, based on the information then available to it:

- (a) determine the extent to which the energy productivity activities reported in that REPS year contribute towards the satisfaction of the obliged retailer's energy productivity target/s, and
- (b) determine whether the obliged retailer has satisfied its energy productivity target/s (as the case may be) for that REPS year.

~~5.2.25.1.2~~ The Commission will advise the obliged retailer in writing of the Commission's determinations under clause ~~5.1.15.12.1~~ within 10 business days of the determinations being made.

5.35.2 Information subsequent

~~5.3.15.2.1~~ Where the Commission becomes aware of information which demonstrates (to the Commission's satisfaction) that a determination made under clause ~~5.15.2.1~~ is incorrect, then the Commission may re-determine that matter and will advise the obliged retailer of its new determination within 10 business days of that new determination being made.

5.4 Shortfalls and excesses

5.4.1 Where the Commission's determination is that an obliged retailer has failed to meet an energy productivity target, the Commission will issue a shortfall notice under clause 3.4.

5.4.2 Where the Commission's determination is that an obliged retailer has exceeded an energy productivity target, the Commission will issue an excess notice under clause 3.5.

5.5 Energy productivity activity credit

5.5.1 If an obliged retailer accrues an energy credit in relation to energy productivity activities undertaken during a REPS year, the Commission will take the energy credit into account in its determination of whether or not the obliged retailer has met its energy productivity targets in any subsequent year where the energy credit is applied by the obliged retailer.

DRAFT

6 Consumer Protection Obligations

6.1 Information provision

- 6.1.1 Where an **energy productivity activity** has been performed at or in relation to a customer's premises, a written **information statement**, containing the matters required under clause 6.1.2 must be provided to the **customer** at the time the activity is performed prior to the date of commencement of the **Retailer Energy Productivity Scheme** activity.
- 6.1.2 An **information statement** must set out:
- (a) the name and contact details of the person or entity which performed the **energy productivity activity**
 - (a)(b) the name of the retailer who will be the **obliged retailer** for the **energy productivity activity**
 - (b)(c) a description of the **energy productivity activity** undertaken at or in respect to the premises
 - (e)(d) a notice that the **energy productivity activity** is intended to be counted in satisfaction of an **obliged retailer's** obligations under the **Retailer Energy Productivity Scheme**, and
 - (e) the manner in which the **customer** may access the dispute resolution processes required under clause An **obliged retailer** must ensure that a **customer** has access to complaint handling and dispute resolution procedures established in accordance with AS/NZ 10002-2014 (or any standard which supersedes this standard) for any complaints in relation to **energy productivity activities** arising under the **Retailer Energy Productivity Scheme** or this **Retailer Energy Productivity Scheme Code**.~~6.2.1~~ in relation to the **energy productivity activity** and relevant contact details for those processes.
 - (f) the amount of any required co-payment payable by the **customer** for the proposed **Retailer Energy Productivity Scheme** activity.
- ~~(d)~~6.1.3 At the time of booking a **Retailer Energy Productivity Scheme** activity with a customer, an **obliged retailer** must disclose the existence and amount of any required co-payment payable by the customer for the proposed **Retailer Energy Productivity Scheme** activity.
- ~~6.1.3~~ For the avoidance of doubt clauses 6.1.1 and 6.1.2 apply to **energy productivity activities** that require installation at a **premises**.

6.2 Complaints

- 6.2.1 An **obliged retailer** must ensure that a **customer** has access to complaint handling and dispute resolution procedures established in accordance with AS/NZ 10002-2014 (or any standard which supersedes this standard) for any complaints in

relation to **energy productivity activities** arising under the **Retailer Energy Productivity Scheme** or this Retailer Energy Productivity Scheme Code.

6.3 Identification

6.3.1 An **obliged retailer** must ensure that each person conducting an **energy productivity activity** at ~~a~~ or in respect of a customer's **premises** for the purposes of the **Retailer Energy Productivity Scheme** wears an identification badge containing:

- (a) the person's full name
- (b) a recent colour photograph of the person
- (c) the full name of the company that they are representing (including ABN), and
- (d) a current contact telephone number of the company that they are representing.

6.4 General conduct standards

6.4.1 An **obliged retailer** must ensure a person conducting an **energy productivity activity** at or in respect of a customer's **premises** for the purposes of the **Retailer Energy Productivity Scheme** complies with the following minimum standards of conduct:

- (a) all applicable Commonwealth and State laws must be complied with
- (b) the **customer** must be advised as to the purpose of the contact
- (c) there must be no misleading, deceptive or unconscionable conduct, whether by act or omission
- (d) undue pressure must not be exerted on the **customer**, and that the **customer** must not be harassed or coerced
- (e) information provided to **customers** must be truthful, complete and in plain language, and
- (f) the person must leave the **premises** immediately when asked.

6.5 Mandatory safety requirements

6.5.1 ~~By no later than 31 March of each REPS year~~ Prior to commencement of an energy productivity activity, an **obliged retailer** must ensure that all persons conducting the energy productivity activities activity on behalf of that **obliged retailer** have undertaken all necessary training (including, without limitation, health, safety and welfare training) and training on the consumer protections available under this Retailer Energy Productivity Scheme Code consumer protection obligations training to provide ~~those that~~ energy productivity activities activity in accordance

with the specifications of this Retailer Energy Productivity Scheme Code and other legislative requirements.

- 6.5.2 At the request of the **Commission**, an **obliged retailer** must provide evidence (in the manner and form specified by the **Commission**) of the matters specified under clause 6.5.1 within 10 business days.

6.6 Fit and proper person test

- 6.6.1 An **obliged retailer** must:

- (a) ensure that an assessment is made of the fitness and propriety of each person conducting an **energy productivity activity** at or in respect of a customer's **premises** on the behalf of the **obliged retailer**, and
- (b) be satisfied that the person is a fit and proper person to conduct ~~or~~ **energy productivity activities** at or in respect of customers' **premises**.

6.6.2 In assessing whether a person is an appropriate person to conduct an **energy productivity activity** at or in respect of a customer's **premises** on the behalf of the **obliged retailer**, the **obliged retailer** must have regard to the activities that the person will perform and must give consideration to the following (in addition to any further relevant considerations):

- (a) whether the person has the required knowledge, skill and capacity to undertake the **energy productivity activities**
- (b) whether the person has sufficient honesty and integrity to appropriately undertake the **energy productivity activities** and to maintain accurate records of the work undertaken, and
- (c) whether the person can be trusted to act appropriately when undertaking **energy productivity activity** at or in respect of a customer's **premises**.

6.6.2.6.3 At if required by the **Commission's** request, an **obliged retailer** must supply provide evidence to the satisfaction of the **Commission** of its compliance with ~~in~~ relation to the obligations imposed under clauses 6.6.1 and 6.6.2 within seventeen business days of the requirement to provide evidence.

6.7 Provision of general information about the Retailer Energy Productivity Scheme

- 6.7.1 When contacted by a **customer**, an **obliged retailer** ~~shall~~ must provide general information about the **Retailer Energy Productivity Scheme**. The minimum information to be provided includes, but is not limited to:
- (a) that the retailer is an **obliged retailer** for the purposes of the **Retailer Energy Productivity Scheme**
 - (b) advice on the particular **energy productivity activities** that the retailer provides, and
 - (c) an offer to take bookings to have the **energy productivity activity** performed at or in respect of the customer's **premises**, and if so, assist the **customer** in that regard.

6.7.2 In meeting the requirements of [clause 6.7.1](#), the **Commission** considers it appropriate for the call centre operator to transfer the caller to a nominated contact officer, or provide the caller with the telephone number of a nominated contact officer (or contractor) to address the caller's questions on behalf of the **obliged retailer**.

DRAFT

Transitional Arrangements

Conversion of energy credits and shortfalls

Where the Commission's 2020 determination is that an **obliged retailer** has failed to meet an **energy efficiency target**, then the **Commission** will convert that shortfall into an amount of energy and that **obliged retailer** must cause sufficient **energy productivity activities** to be undertaken in the **REPS year** immediately following so as to make good that shortfall.

Cut-off date for reporting of energy efficiency activities and energy audits

The **Commission** will designate, by notice in the South Australian Government Gazette, a day by which **obliged retailers** must report to the **Commission**, **energy productivity activities** and **energy audits** undertaken prior to 1 January 2021.

Energy productivity activities undertaken prior to 1 January 2021 must be reported prior to the designated cut-off date referred to in clause 7.2.1 and must be reported in **normalised gigajoules**.

DRAFT

Schedule 1 – Definitions

In this Retailer Energy Productivity Scheme Code:

activity record refers to the document under which the information as required under clause ~~1.1.14.2.1~~ and Schedule 3 is collected and recorded.

~~**AEMO** means the Australian Energy Market Operator [ABN 94 072 010 327].~~

annual energy productivity target for a **REPS year** means the value determined by the **Minister** for the purposes of Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*.

business day means a day that is not a Saturday, a Sunday or a public holiday in the State of South Australia.

Commission means the Essential Services Commission established under the *Essential Services Commission Act 2002 (SA)*.

~~**competent person** has the meaning given to that term in the minimum specification published by the **Minister** for the purposes of Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*.~~

customer is a person or business receiving an **energy productivity activity** for the purposes of the Retailer Energy Productivity Scheme.

~~**designated energy purchases** are designated electricity purchases as defined in s22(4) of the *Electricity (General) Regulations 2012* and designated gas purchases as defined in s16(4) of the *Gas Regulations 2012*.~~

~~**distributor** means a holder of a licence authorising the operation of a distribution network under Part 3 of the *Electricity Act 1996* or the *Gas Act 1997* (as the case may be).~~

~~**electricity licence** means a licence authorising the sale of electricity, issued under Part 3 of the *Electricity Act 1996 (SA)*, or a retailer authorisation issued under Part 5 of the **National Energy Retail Law** for the sale of electricity.~~

electricity energy productivity target is the proportion of the **annual energy productivity target** which is applicable to an **electricity retailer** in relation to a **REPS year** in accordance with Part 4 of the *Electricity (General) Regulations 2012* as notified to the **electricity retailer** from time to time in accordance with chapter 3 of this Retailer Energy Productivity Scheme Code.

electricity retailer means the holder of a licence authorising the retailing of electricity, issued pursuant to Part 3 of the *Electricity Act 1996 (SA)*, or a **NERL retailer** authorised to sell electricity, which is bound by the provisions of Part 4 of the *Electricity (General) Regulations 2012* in respect of a **REPS year**.

~~**energy audit** means an audit of a **priority group household** undertaken by an **energy retailer** in accordance with guidelines published by the **Minister** for the purposes of Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*, in effect as they were during a REES year.~~

~~**energy credit** has the meaning given to that term in Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*.~~

energy productivity activity means an activity specified in the specifications gazetted by the **Minister** from time to time.

energy productivity target means either or both of (as the case may be) an **electricity energy productivity target** and a **gas energy productivity target**.

energy productivity sub-target means a target set by the **Minister** which is a designated proportion of an **energy productivity target** that must be met in a specified manner, including, but not limited to, the **priority group household energy productivity target**.

~~**energy retail licence** means an **electricity licence** or **gas licence**.~~

energy retailer means either or both of (as the case may be) an **electricity retailer** and a **gas retailer**.

Energy and Water Ombudsman SA means the Ombudsman appointed under the scheme approved by the **Commission** in accordance with the requirements of the *Electricity Act 1996 (SA)* and *Gas Act 1997 (SA)*.

~~**gas licence** means a licence authorising the sale and **supply** of gas, issued under Part 3 of the *Gas Act 1997 (SA)*, or a retailer authorisation issued under Part 5 of the **National Energy Retail Law** for the sale of gas.~~

gas energy productivity target is the proportion of the **annual energy productivity target** which is applicable to a **gas retailer** in relation to a **REPS year** in accordance with Part 4 of the *Gas Regulations 2012* as notified to the **gas retailer** from time to time in accordance with chapter 3 of this Retailer Energy Productivity Scheme Code.

gas retailer means the holder of a licence authorising the retailing of gas, issued pursuant to Part 3 of the *Gas Act 1997 (SA)*, or a **NERL retailer** authorised to sell gas, which is bound by the provisions of Part 4 of the *Gas Regulations 2012* in respect of a **REPS year**.

~~**household energy productivity target** is an **energy productivity sub-target** set by the **Minister** from time to time under Part 4 of the *Electricity (General) Regulation 2012* and Part 4 of the *Gas Regulations 2012* which must be met in the specified manner.~~

~~**information statement** has the meaning given to that term under clause 6.1.1. Where an energy productivity activity has been performed at or in relation to a customer's premises, a written information statement, containing the matters required under clause 6.1.2 must be provided to the customer at the prior to the date of commencement of the Retailer Energy Productivity Scheme activity. An obliged retailer must ensure that each person conducting an energy productivity activity at or in respect of a customer's premises for the purposes of the Retailer Energy Productivity Scheme provides a written information statement, containing the matters required under clause 6.1.2. An information statement must be provided to the customer at the time that the activity is performed.~~

~~**materiality** has the meaning given to that term in clause 4.7 and **material** has a corresponding meaning.~~

Minister means the **Minister** (including any acting Minister) responsible for the administration of the *Electricity Act 1996 (SA)* and/or the *Gas Act 1997 (SA)*.

National Energy Retail Law means the Schedule to the *National Energy Retail Law (South Australia) Act 2011*.

NERL retailer has the meaning given to that term in the *Electricity Act 1996* and *Gas Act 1997*, being the holder of a retailer authorisation under the **National Energy Retail Law** or an exempt seller within the meaning of the **National Energy Retail Law**.

~~**normalised gigajoules** are calculated pursuant to a notice published by the **Minister** under the Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012* that sets out relevant information relating to an activity or measure that constitutes an **energy productivity activity**.~~

obligation threshold is the threshold number as set by the **Minister** of residential customers, or electricity or gas purchases which an **energy retailer** must have before any obligations under the **Retailer Energy Productivity Scheme** arise.

obliged retailer is an **energy retailer** with an obligation to meet one or more targets in a **REPS year**.

premises is the residence or place of business of a **customer** receiving **energy productivity activities** ~~where installation is required.~~

primary obligation threshold is the **obligation threshold** of residential customer numbers set by the **Minister**.

primary obliged retailer refers to an **energy retailer** which has **residential customer** numbers equalling or exceeding the **primary obligation threshold** as at 30 June immediately prior to the commencement of a **REPS year**. A **primary obliged retailer** will be set an **energy productivity target**, a **priority group household energy productivity target** and may be set further **energy productivity sub-targets**.

priority group household energy productivity target is an **energy productivity sub-target** set by the **Minister** from time to time under Part 4 of the *Electricity (General) Regulation 2012* and Part 4 of the *Gas Regulations 2012* which must be met in the specified manner.

priority group household has the meaning given to that term in Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*.

~~**REES Retailer File Validation System (REES-R)** is the IT system developed by the **Commission** for the purposes of reporting and validation of **energy efficiency activities** and **energy audits** undertaken during **REES years**~~

~~**REPS year** means each consecutive twelve-month period 1 January to 31 December, commencing on 1 January 20092021.~~

~~**REPS Retailer File Validation System (REPS-R)** is the IT system developed by the **Commission** for the purposes of reporting and validation. **REPS year** means each consecutive twelve-month period 1 January to 31 December, commencing on 1 January 2021.~~

residential customer means a natural person who is a **small customer** and purchases, or proposes to purchase, energy primarily for domestic purposes.

Retailer Energy Productivity Scheme means the scheme of that name established by the combined operation of the provisions of Part 4 of the *Electricity (General) Regulations 2012* and Part 4 of the *Gas Regulations 2012*.

secondary obligation threshold is the **obligation threshold** of electricity and/or gas purchases set by the **Minister**.

secondary obliged retailer refers to **gas** or **electricity retailers**, which are not **primary obliged retailers**, that purchase, in the year immediately prior to the commencement of a **REPS year**, an amount of electricity or gas equalling or exceeding a **secondary obligation threshold** for on-selling to South Australian customers. A **secondary obliged retailer** is set an **energy productivity target** and may be set **energy productivity sub-targets**.

small customer has the meaning given to that term in the *Electricity Act 1996* or the *Gas Act 1997* (as the case may be), or on commencement of the *National Energy Retail Law (South Australia) Act 2011* in South Australia, the meaning given to that term under section 5 of the **National Energy Retail Law**.

submitted data refers to data accepted by the **obliged retailer** in the **REES File Validation System (REES-R)** for the application to a target/s in a **REES year**, or **REPS Retailer File Validation System (REPS-R)** for the application to a target/s in a **REPS year**.

supply means the physical delivery of electricity or gas.

DRAFT

Schedule 2 - Interpretation

In this Retailer Energy Productivity Scheme Code, unless the context otherwise requires:

- (a) Headings and footnotes are for convenience or information only and do not affect the interpretation of this industry code or of any term or condition set out in this industry code.
- (b) Words importing the singular include the plural and vice versa.
- (c) An expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency and vice versa.
- (d) A reference to a clause or appendix is to a clause or appendix of this industry code.
- (e) A reference to any statute includes all statutes varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, ordinances, by-laws and determinations issued under that statute.
- (f) A reference to a document or a provision of a document includes an amendment or supplement to, or replacement of or novation of, that document or that provision of that document.
- (g) A reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns.
- (h) Other parts of speech and grammatical forms of a word or phrase defined in this industry code have a corresponding meaning.

DRAFT

Schedule 3 - REPS Activity Records

In accordance with clause 4.2 of the Retailer Energy Productivity Scheme Code an **obliged retailer** must collect and record information specified in this Schedule 3 in relation to each **energy productivity activity** at the time the activity is performed. This information must be collected in addition to any information specified in the individual **energy productivity activity** specifications as gazetted by the **Minister** and published on the **Commission's** website.

General (excluding High Productivity Appliances – where details should be collected if available)

- ▶ Transaction Id
- ▶ Installer Company Name
- ▶ Occupational Licence Number (where applicable)
- ▶ ABN (where applicable)
- ▶ Certificate of Compliance Number (where applicable)
- ▶ Transaction Date
- ▶ Customer Details, including:
 - first name and surname (or business name)
 - address
 - telephone number (if consent received from customer) and
 - email address (optional)
- ▶ Concession Type (if applicable)
- ▶ Household Type (owner occupied, private rental, public rental)
- ▶ A signed statement from the installer certifying that the **energy productivity activities** have been undertaken in accordance with the minimum requirements of **Retailer Energy Productivity Scheme**
- ▶ A signed statement from the customer certifying that the **energy productivity activities** have been undertaken **in-at or in respect of** the customer's **premises** and that a copy of the **Retailer Energy Productivity Scheme information statement** has been left with the customer

High Productivity Appliances

- ▶ Transaction Id
- ▶ Installer Company Name
- ▶ Transaction Date

Aggregate Metered Baseline Activities

~~Information must be collected and recorded per the Aggregate Metered Baseline activity specification (as Gazetted) and as specified separately by the Commission.~~

Energy Productivity Activities

Details collected under this section must relate to the minimum specification of the **energy productivity activity** undertaken. **Obligated retailers** must ensure that sufficient records are collected for reporting and audit purposes. Information collected must include at least the following:

- ▶ **Energy Productivity Activity** (individual unit (type))
- ▶ Total units installed/supplied

In relation to Standby Power Controller (SPC activities):

- ▶ An additional signed statement from the householder and installer certifying that in relation to Standby Power Controller (SPC) activities:
 - If the SPC(s) does not have an inbuilt surge protection and is replacing a powerboard which did, then the resident has been advised specifically of this reduction in the level of protection.
 - The SPC has a minimum warranty period which has been stated to the resident.
 - The householder has been provided with adequate instruction on the working of the SPC(s), and provided with printed instructions including a helpline number.

|

DRAFT

|

This Industry Code was made by the **Commission** on 24 December 2020 pursuant to Part 4 of the *Essential Services Commission Act 2002*, to take effect on and from the date notified in the Gazette.

Adam Wilson

Chief Executive Officer and Commission authorised signatory

.....

Date

.....

DRAFT



The Essential Services Commission
Level 1, 151 Pirie Street Adelaide SA 5000
GPO Box 2605 Adelaide SA 5001
T 08 8463 4444

E escosa@escosa.sa.gov.au | W www.escosa.sa.gov.au